

## GOVERNMENT OF ANDHRA PRADESH

### ABSTRACT

Chittoor District – Revision Petition filed by Smt. P. Kanthamma W/o Sri Subrahmanyam Naidu, Gundlakandriga Village, Yerpedu Mandal, Chittoor District – Against the orders of CCLA., Hyderabad in Proceedings No.BCW2/71/2008, dated. 3-3-2010 – Revision Petition Dismissed – Orders – Issued.

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### **REVENUE (ASSN.IV) DEPARTMENT**

**G.O. Ms No. 633**

**Dated: 09-06-2011.**

**Read the following:-**

1. Commissioner of Appeals O/o Chief Commissioner of Land Administration, Hyderabad Proceedings No. BCW 2/71/2008, dt. 3.3.2010.
2. Revision Petition filed by Smt. P. Kanthamma, W/o Sri Subrahmanyam Naidu, Gundlakandriga (V), Yerpedu (M). Chittoor District dated. 31-3-2010.
3. Govt. Memo. No. 15368/Assn.IV(2)/2010, dt. 16-4-2010.
4. Orders dated. 22-4-2010 of APHC in WP No. 8144/2010 filed by Smt. P. Kanthamma, W/o Sri Subrahmanyam Naidu, Gundlakandriga (V), Yerpedu (M). Chittoor District (Revision Petitioners herein).
5. From the District Collector, Chittoor Letter No. Roc.E3/4981/2010, dated. 11-6-2010.

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### **ORDER :**

Whereas in the reference 1<sup>st</sup> read above, the Commissioner (Appeals), O/o Chief Commissioner of Land Administration, Hyderabad had dismissed the appeal filed by Smt. P. Kanthamma, W/o Sri Subrahmanyam Naidu on the ground that there is no need to interfere with the orders passed by the Joint Collector, Chittoor District in D.Dis.E6/3157/2005, dated. 31-12-2007.

2) Whereas, Smt. P. Kanthamma, W/o Sri Subrahmanyam Naidu, Gundlakandriga (V), Yerpedu (M). Chittoor District has filed Revision Petition before the Government in the second read above against the orders of the Commissioner, Appeals Proceedings No. BCW 2/71/2008, dt. 03.03.2010 and prayed to set aside the orders dt.3.3.2010 in CCLA's Proceedings No.BCW2/71/2008 of Commissioner (Appeals) by following the revision and to pass such other and further orders as deemed fit. She among the other things filed the following grounds in support of her claim:

1. The orders of the authority below are illegal, unjust, arbitrary and contrary to law.
2. The authority below has exercised its jurisdiction illegally and with material irregularity, occasioning a failure of justice and causing irreparable injury to the petitioner.
3. The learned Commissioner, Appeals committed grave error in confirming the order of the Joint Collector, Chittoor made in Proceedings in D.Dis(E6)/3157/2005, dt.31.12.2007.
4. The petitioner/assignee is a land less poor lady. The petitioner is in possession and enjoyment of the land to an extent of Ac.1-64 cents in Sy.No.136/2 of Chelluru (V), Yerpedu (M), since 1972. As the petitioner is a landless poor and applied for grant of DKT patta for the land which is in her possession and enjoyment, on that, the assigning authority, considering her request, eligibility and suitability for the grant of DKT patta, following all the mandatory provisions, her prior possession, granted DKT patta to an extent of Ac.1.64 cents in Sy.No.136/2 of Chelluru Village, vide Proceedings DKT No.18/4/1412, dt.2.1.2003.

5. The petitioner/assignee effected vast improvement of the subject land by spending her hard earnings. The assignee also dug a bore well with permission of the Mandal Revenue Officer and obtained service connection No.22906000437 on the recommendation of the Revenue authorities. She also obtained a loan on mortgaging the assigned land from Sri Venkateswara Grameena Bank / Sapthagiri Grameena Bank, Papanaidupet. The petitioner submits that she reclaimed the land by clearing shrubs, stones, leveled the land, formed ridges, dug a well and fixed an electric motor, cultivating the land.
6. The petitioner submits that she obtained a loan for digging a bore well in the subject land from the Bank stated supra, with the said loan, inclusive of her private loans, the petitioner dug a well and fixed electric motor.
7. The petitioner submits that the objector/s along with Sadasiva Naidu, Lokanadha Naidu and Venkatasubba Naidu attempting to interfere with the peaceful possession and enjoyment of the subject land, she instituted the suit, O.S.No.377 of 2004 on the file of the court of the Prl. Junior Civil Judge, Srikalahasti and on the interim application, I.A. No.1292 of 2004, the learned Judge granted status quo, 10.11.2004.
8. The petitioner submits that except the land in question, she has no other land, besides the ancestral small house property, and thus she is a land less poor.
9. The authority below exercised the power under BSO 15, para 18 after long lapse of 5 years, which is impermissible under law.
10. The petitioner submits that the Jt.Collector, Chittoor illegally initiated action on the basis of the reports of the Revenue Divisional Officer and Tahsildar and cancelled the assignment of the petitioner and made an adverse order based on the reports, without furnishing the copies of the said reports and without disclosing the substance of the same and therefore, the authority below ought to have found fault with the orders of the Joint Collector as the same is against the principles laid down in a decision reported in 1995 (3) ALT-458, by allowing the revision.
11. The Jt. Collector issued show cause notice alleging that the petitioner comes above poverty line and why the patta should not be cancelled. The petitioner offered a detailed explanation, therefore, the Jt. Collector considering the same ought not to have cancelled the assignment patta.
12. The learned commissioner ought to have set aside the proceedings of the Joint Collector holding that the same are contrary to the provisions of the Board Standing Orders.
13. The petitioner humbly submits that at the instance and with the false and frivolous allegations made in the report of the R.D.O., Tirupati and Jt.Collector, Chittoor initiated action, therefore, the Commissioner (Appeals) ought to have quashed the orders dt.31.12.2007 in D.Dis.(E6)3157/2005.
14. A reading of BSO 15, para 2(ii) that the land less poor is one who owns not more than Ac.2.50 cents of wet or Ac.5.00 of dry and admittedly in the instant case the petitioner's husband owns a small house, by virtue of partition dt.20.2.2000, hence, the authorities below ought not to have cancelled the assignment.
15. The observation of the authority below that as can be seen from the lower court record, Sri B.Chandraiah, S/o Chengaiah, Gundlakandriga Village, Yerpedu (M), Chittoor and other

residents have represented that they had encroached and reclaimed the land since long time but, it was assigned to Smt. P.Kanthamma and requested for assigned the same to the respondents is totally incorrect and contrary to evidence on record.

16. As can be seen from the orders of the Commissioner (Appeals), on the basis of the report of the RDO, Tirupati, the Jt. Collector, Chittoor had issued show-cause notice. The initiation of action and issuance of show-cause notice at the instance of the RDO, which is impermissible under law, therefore, the said action is liable to be declared as illegal.
  17. The authority below over looked the well settled principles of law, that the status of assignee at the time of assignment is relevant.
  18. The orders of the Jt. Collector and the Commissioner (Appeals/Appellate authority) are contrary to the principles settled by the Hon'ble High Court of A.P., "Shares of all the major members of joint family have to be computed on the basis of the notional partition while determining status of land less poor persons", reported in 2009(1) ALT-424.
  19. The Joint Collector, Chittoor erred in entertaining the representation by Chandraiah, without noticing that he neither applied for assignment, when assignee applied, nor questioned assignment granted in favour of assignee by filing an appeal before the RDO, therefore, the Commissioner, Appeals found fault with the orders of the Joint Collector in view of the decision reported in 2008(6) ALD 343.
  20. The petitioner submits that the assignee and her husband gave birth to two sons and one daughter namely 1. P.Narendra, 2. P.Murali and P. Lelavathi and that the said first son, P.Narendra was married in the year 1993, the 2<sup>nd</sup> son, P.Murali, married in the year 1999 and her daughter married in the year 1994 and that the family members partitioned and executed memorandum of partition on 20.2.2000 and that by virtue of the said memorandum, the petitioner's husband was not allotted any land to his share, but only a small house, hence, the petitioner is a land less poor, considering the same in perspective manner, the Commissioner (Appeals) and Jt. Collector ought to have confirmed the assignment.
  21. The order of the authority below is cryptic in nature, without assigning any valid reasons; therefore, the same is liable to be quashed.
- 3). Whereas in the reference 3<sup>rd</sup> read above, the District Collector, Chittoor, has been requested to furnish a detailed report together with parawise remarks and connected records through Chief Commissioner of Land Administration, Hyderabad on the Revision Petition.
- 4) And whereas in the reference 5<sup>th</sup> read above, the District Collector, Chittoor reported that, on verification of the records the brief facts of the case are as follows:-
- i) The land in Sy.No. 136/2 extent 1.64 acres of Chelluru village was originally classified as A.W.D. as per village accounts and the said land was assigned to Smt. P.Kanthamma W/o Sri Subramanyam Naidu, resident of Gundlakandriga village H/o Chelluru during the year 2003, vide DKT No. 18/4/1412, dated 02.01.2003.

- ii) Subsequently, the villagers of Gundlakandrigha Arundathiwada viz., Sri B.Chandraiah and others have submitted a petition to the then Mandal Revenue Officer, Yerpedu, stating that they have encroached and reclaimed the land in S.No. 136/2 extent 1.64 acres of Chelluru since long time, but it were assigned to one Smt. P.Kanthamma, a wealthy pattadar who was ineligible and requested to assign the same to them. The then Mandal Revenue Officer, Yerpedu who enquired in to the matter has submitted report to the Joint Collector, Chittoor for cancellation of DKT patta granted to Smt. P. Kanthamma under mistake of fact as per BSO 15(18). The matter was referred to the Revenue Divisional Officer, Tirupati and the Revenue Divisional Officer, Tirupati has submitted his report vide Roc. D/64/2005, dated 2.4.2005 to the Joint Collector, Chittoor stating that the assignee Smt. P.Kanthamma does not come under BPL category and does not deserve assignment as her husband owns 1.64 acres of Wet land and 2.00 ½ acres of Dry lands total holding put together 5.28 ½ acres of lands in Chelluru and Gudimallam villages of Yerpedu Mandal. She also owns a pucca house in Gundlakandrigha village and also reported that the land was under the enjoyment of the landless poor SCs of Gundlakandrigha Arundathiwada and that recommended for cancellation of assignment under mistake of fact as per BSO 15(18).
  - iii) After perusal of records, the joint Collector, Chittoor has cancelled the assignment patta granted to Smt. P.Kanthamma W/o Subramanyam Naidu which was made under mistake of fact as per BSO 15(18) in the Proceedings in D.Dis E6/3157/2005, dated 31.12.2007 and directed the Tahsildar, Yerpedu to resume the lands to Government and make necessary changes in the village and Mandal level accounts under proper attestation. Accordingly the then Tahsildar, Yerpedu has resumed the land to Government duly carrying out the necessary changes in the village accounts.
  - iv) Aggrieved by the orders of the Joint Collector, Chittoor, she has filed an appeal before the Commissioner (Appeals), Office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad.
  - v) The Commissioner (Appeals), Office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad after observing the due formalities has dismissed the Appeal filed by the Smt. P.Kanthamma in Proceedings No. BCW2/71/2008 dated 03.03.2010.
  - vi) Aggrieved by the orders of the Commissioner (Appeals), Smt. P. Kanthamma has filed a Writ Petition No. 8144/2010, before the Hon'ble High Court of A.P., Hyderabad and Appeal petition before the Principal Secretary (Assignments), Government of A.P., Hyderabad.
- 5) Whereas in the reference 4<sup>th</sup> read above, the Hon'ble High Court of Andhra Pradesh, in its orders dated. 22.4.2010 in W.P.No.8144/2010, after getting instructions from Asst. Government Pleader for Revenue (Assignments) who promised the Court that appropriate orders will be passed on the application of the petitioner within a period of ten days, the same was recorded and the W.P. was disposed of.
- 6) And whereas the Revision Authority heard the case on 25-5-2011. The Advocate for the Revision Petitioner has attended the hearing and argued the case and reiterated the grounds filed in the Revision Petition and has not filed any further written arguments. The Tahsildar, Yerpedu Mandal also attended along with connected records.

7) And whereas the Revision Authority, after hearing the arguments of the Advocate of the Revision Petitioner and also after perusing the original records made available by the Collector, Chittoor and also the report of Tahsildar, Yerpedu have observed as follows :-

1. that the contention of the Revision Petition that orders of the Commissioner (Appeals), the Joint Collector, Chittoor and other lower authorities are illegal, unjust, arbitrary and contrary to Law is not correct since, she was afforded reasonable opportunity to present her case in all forums and she could not sustain it, for lack of merit under the provisions of the Acts & Rules in force.
2. that the enquiry conducted by the R.D.O. revealed that the Revision Petitioner was not eligible for assignment of land and that the assignment was granted to her under mistake of fact and misrepresentation and as such liable for resumption.
3. that she failed to prove that the assignment made to her was valid since records show that her husband was holding an extent of Acs.5.20 ½ cents in his name.

8) In view of the above, I do not see any valid reasons to interfere with the Proceedings No. BCW 2/71/2008 dated. 3-3-2010 of the Commissioner (Appeals), O/o the Chief Commissioner of Land Administration, Hyderabad and accordingly hereby dismiss the Revision Petition filed by Smt. P. Kanthamma, W/o Sri Subramanyam Naidu, Gundlakandriga (V), Yerpedu (M), Chittoor District.

9). The Commissioner (Appeals) O/o the Spl.C.S. & Chief Commissioner of Land Administration, Hyderabad and the District Collector, Chittoor shall take necessary action accordingly.

10) The following records received through the reference 5<sup>th</sup> cited are returned herewith to the District Collector, Chittoor and he is requested to acknowledge the same:

**i) Collector, Chittoor, D. Dis E6/3157/2005 dated. 31-12-2008, pages 1-200 CF & 1-18 NF.**

**ii) Tahsildar, Yerpedu, D.Dis.No.40/2008, dt.7.2.2008, Pages 1 to 46 CF.**

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**ANIL CHANDRA PUNETHA  
PRINCIPAL SECRETARY TO GOVERNMENT**

To

Smt. P. Kanthamma (Petitioner)

(Through Tahsildar, Yerpedu, Chittoor Dist., and he is requested to serve copy of the order to the R.P. and furnish the served copy to the Govt., immediately)

The Commissioner (Appeals), O/o Spl. Chief Secretary & Chief Commissioner of Land Administration, Hyderabad  
The District Collector, Chittoor. (with original records as above).

The G.P. for Revenue (Assgn), APHC, Hyderabad.  
for apprising the matter to the Hon'ble APHC.

Copy to: M/s. S.V. Muni Reddy, H.No.3-4-813/1,2&3, (Advocate),  
SVC Residency, Street No.1, Barkatpura, Hyderabad-27.  
(Counsel for the Petitioner).

Copy to: P.S. to Prl. Secretary (Revenue).  
SF/SC.

**//FORWARDED:: BY ORDER//**

**SECTION OFFICER**